

REMARKS

Claims 2-10, 20, 21, 36-39, and 46-50 are pending in the application. Claims 2-10, 20, 21, 36-39, and 46-50 stand finally rejected. No claims are allowed.

The specification has been amended to delete reference to “A visual comparison of.”

Claims 7-9 and 36 have been amended to more clearly describe and distinctly claim the subject matter the Applicants consider their invention. Specifically, claim 7 has been amended to delete reference to “ceramic substrates.” Claims 8 and 9 have been amended to specify “the” internal combustion engine of claim 36. Claim 36 has been amended to clarify that the shape of the catalyst member has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe without loss of catalytic material. Support for the amendment can be found throughout the specification and claims as originally filed, *e.g.*, page 17, line 23 to page 18, line 19; page 11, lines 11-19; page 35, line 7 to page 36, line 4. Accordingly, no new matter has been introduced by this amendment.

Claim 11 has been cancelled without prejudice or disclaimer. Applicants reserve the right to file one or more continuing applications directed to the canceled subject matter and/or any other subject matter disclosed in the instant specification.

Claims 2-10, 20, 21, 36-39, and 46-50 are presented for further proceedings. Reconsideration of the claim rejections and allowance of the pending claims in view of the amendments above and following remarks are respectfully requested.

Objection to the Disclosure

The disclosure at page 16, lines 4-24 is objected to because it discloses the “A visual comparison of Figures 1A through 1D and Figures 2A through 2C” However, according to

the Examiner, it is unclear how the visual comparison can be made given the differences substrate composition, orientation and magnification.

The specification has been amended to delete reference to “A visual comparison.” Accordingly, reconsideration of this basis for objection is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

a. Claims 7 and 11 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. According to the Examiner, there is no support in instant specification for the limitation “ceramic substrates” in claims 7 and 11, which can be conformed by bending and/or compressing.

Claim 11 has been cancelled without prejudice or disclaimer, thereby rendering the rejection with respect to this claim moot. Claim 7 has been amended to delete reference to “ceramic substrate.” Accordingly, reconsideration of this basis for objection is respectfully requested.

b. Claims 2-11, 20, 21, 36-39 and 46-50 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The Examiner asserts that it is unclear in claims 8 and 9 whether “an internal combustion engine” is the same as the internal combustion engine of claim 36. The Examiner also asserts that it is unclear in claim 36 what is required to be or occurred “within an exhaust manifold or exhaust flow pipe.”

Claims 8 and 9 have been amended to specify “the” internal combustion engine of claim 36. Claim 36 has been amended to clarify that the shape of the catalyst member has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe without loss of catalytic material. Accordingly, reconsideration of this basis for rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

a. Claims 2-5, 7-11, 21 and 36-39 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Gorynin et al. (US 5,204,302; “Gorynin”) in view of Rondeau (US 4,027,367; “Rondeau”), optionally further in view of Ishida (US 4,455,281; “Ishida”), for essentially the reasons of record. In response to Applicants’ arguments and Declaration filed on November 26, 2007, that none of the cited references teach or suggest conforming the shape of the catalyst member by bending and/or compressing the catalyst member within an exhaust manifold or exhaust flow pipe, the Examiner states that exhaust pipe is not required to have a “bent” or “curve.” As such, the Examiner maintains that Gorynin discloses a catalyst assembled by “corrugating a catalyst strip and rolling it into a cylinder,” and that “corrugating” and “rolling” are considered the same as “bending.”

Claim 11 has been cancelled without prejudice or disclaimer, thereby rendering the rejection with respect to this claim moot. With regard to the remaining claims, while Applicants continue to disagree with Examiner’s characterization of the cited references, claim 36 (the only remaining independent claim) has been amended in the interest of expediting prosecution to recite that the shape of the catalyst member has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe without loss of catalytic material. As acknowledged by the Examiner, none of the references teaches or suggests conforming the shape of a catalyst member to a bend or curve in an exhaust system without loss of catalytic material. This is confirmed at ¶¶ 11-16 of the Declaration Under 37 C.F.R. § 1.132 of Michael P. Galligan, submitted on November 26, 2007, in the instant case.

Accordingly, Applicants submit that claims 2-5, 7-10, 21 and 36-39 are not unpatentable over Gorynin in view of Rondeau, optionally further in view of Ishida, and reconsideration of this basis for rejection is respectfully requested.

b. Claims 2-11, 20, 21, 36-39 and 46-50 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Gorynin in view of Rondeau and Ernest (US 4,451,441; “Ernest”), optionally further in view of Ishida and JP 8-319,824 (or EP 0831211), for essentially the reasons of record. As discussed above, the Examiner states that exhaust pipe is not required to have a “bent” or “curve.” As such, the Examiner maintains that Gorynin discloses a catalyst assembled by “corrugating a catalyst strip and rolling it into a cylinder,” and that “corrugating” and “rolling” are considered the same as “bending.” The Examiner also maintains that Ernest teaches that the catalyst composition is “shaped” to have the “general shape” of the housing.

As discussed above, claim 11 has been cancelled without prejudice or disclaimer, thereby rendering the rejection with respect to this claim moot. With regard to the remaining claims, while Applicants continue to disagree with Examiner’s characterization of the cited references, claim 36 (the only remaining independent claim) has been amended in the interest of expediting prosecution to recite that the shape of the catalyst member has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe without loss of catalytic material. As discussed above, and acknowledged by the Examiner, none of the references teaches or suggests conforming the shape of a catalyst member to a bend or curve in an exhaust system without loss of catalytic material. Again, this is confirmed at ¶¶ 11-16 of the Declaration Under 37 C.F.R. § 1.132 of Michael P. Galligan, submitted on November 26, 2007, in the instant case.

Accordingly, Applicants submit that claims 2-10, 20, 21, 36-39 and 46-50 are not unpatentable over Gorynin in view of Rondeau and Ernest, optionally further in view of Ishida and JP 8-319,824 (or EP 0831211), and reconsideration of this basis for rejection is respectfully requested.

c. Claims 2, 6-11, 20, 21, 36-39 and 46-50 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ernest in view of Ishida, optionally further in view of JP 8-319,824 (or EP 0831211), for essentially the reasons of record. As discussed above, the Examiner states that exhaust pipe is not required to have a “bent” or “curve.” As such, the Examiner maintains that Ernest teaches that the catalyst composition is “shaped” to have the “general shape” of the housing.

As discussed above, claim 11 has been cancelled without prejudice or disclaimer, thereby rendering the rejection with respect to this claim moot. With regard to the remaining claims, while Applicants continue to disagree with Examiner’s characterization of the cited references, claim 36 (the only remaining independent claim) has been amended in the interest of expediting prosecution to recite that the shape of the catalyst member has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe without loss of catalytic material. As discussed above, and acknowledged by the Examiner, none of the references teaches or suggests conforming the shape of a catalyst member to a bend or curve in an exhaust system without loss of catalytic material. Again, this is confirmed at ¶¶ 11-16 of the Declaration Under 37 C.F.R. § 1.132 of Michael P. Galligan, submitted on November 26, 2007, in the instant case.

Accordingly, Applicants submit that claims 2, 6-10, 20, 21, 36-39 and 46-50 are not unpatentable over Ernest in view of Ishida, optionally further in view of JP 8-319,824 (or EP 0831211), and reconsideration of this basis for rejection is respectfully requested.

d. Claims 3-5 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ernest and Ishida, optionally further in view of JP 8-319,824 (or EP 0831211), and further in view of Donomoto et al. (US 4,798,770; “Donomoto”) or Draghi et al. (US 6,042,879; “Draghi”), for essentially the reasons of record.

As discussed above, the Examiner states that exhaust pipe is not required to have a “bent” or “curve.” As such, the Examiner maintains that that Ernest teaches that the catalyst composition is “shaped” to have the “general shape” of the housing.

As discussed above, while Applicants continue to disagree with Examiner’s characterization of the cited references, claim 36 (the only remaining independent claim) has been amended in the interest of expediting prosecution to recite that the shape of the catalyst member has been changed by bending and/or compressing the catalyst member *to conform to a bend or curve* within an exhaust manifold or exhaust flow pipe without loss of catalytic material. As discussed above, and acknowledged by the Examiner, none of the references teaches or suggests conforming the shape of a catalyst member to a bend or curve in an exhaust system without loss of catalytic material. Again, this is confirmed at ¶¶ 11-16 of the Declaration Under 37 C.F.R. § 1.132 of Michael P. Galligan, submitted on November 26, 2007, in the instant case.

Accordingly, Applicants submit that claims 3-5 are not unpatentable over Ernest and Ishida, optionally further in view of JP 8-319,824 (or EP 0831211), and further in view of Donomoto or Draghi, and reconsideration of this basis for rejection is respectfully requested.

Regarding the Examiner's statement that the Declaration was not persuasive, Applicants respectfully disagree with the Examiner that the claimed invention was not compared to the closest prior art. The Declaration at paragraph 6 states that the FlexTube catalysts were made in accordance with the claimed invention. The claimed invention is directed to a method that includes the limitations that shape of the catalyst member has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe. The results discussed in paragraphs 7-10 of the Declaration show that the tube that was bent to conform to a bend or curve within an exhaust manifold or exhaust flow pipe performed better than rigid heat tubes. It is irrelevant whether the rigid heat tubes had an anchor layer or not, because rigid tubes cannot be conformed or bent within an exhaust manifold. Additionally, Applicants respectfully disagree that the closest prior art is Gornynin '302 or Ernest '441. Neither of these references are relied upon to show a catalyst which shape has been changed by bending and/or compressing the catalyst member to conform to a bend or curve within an exhaust manifold or exhaust flow pipe. The purpose of the Declaration was to show that a method in which conformable catalyst members were bent or curved to change their shape to conform to a bend or curve within an exhaust flow manifold or exhaust flow pipe performed better than tubes that were not changed in shape to conform to a bend or curve in the exhaust manifold or exhaust flow pipe.

CONCLUSION

It is believed that claims 2-10, 20, 21, 36-39, and 46-50 are now in condition for allowance, early notice of which would be appreciated. No fees are believed due at this time. If any fees are due, however, the Commissioner is authorized to charge Deposit Account No.

05-1070. Please contact the undersigned if any further issues remain to be addressed in connection with this submission.

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Respectfully submitted,

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